

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Telephone Local Number Portability	)	CC Docket No. 95-116
	)	
Petition for Declaratory Ruling of the	)	
Cellular Telecommunications & Internet Association	)	

To: The Commission

**Reply Comments of ALLTEL Communications, Inc.**

ALLTEL Communications, Inc. (“ALLTEL”) respectfully submits its reply comments in the above-captioned matter regarding the “Petition for Declaratory Ruling of the Cellular Telecommunications and Internet Association” (“CTIA Petition”) as filed on May 13, 2003. The disparate positions taken in the comments amplify the critical need for Commission resolution of the issues raised in the CTIA Petition through a valid legal process. It is now clear that a fundamental disjoint exists over Local Number Portability (“LNP”) policy and its implementation in the broader market for two-way voice services.

The Commission's underlying authority to require wireless LNP remains suspect. ALLTEL was a party to the appeal of the Commission's order denying the Verizon petition for permanent forbearance of the wireless LNP requirements.<sup>1</sup> Similarly, ALLTEL has joined CTIA and other member carriers in seeking Commission review of its authority to impose wireless LNP.<sup>2</sup> Comments<sup>3</sup> indicate that the Court definitively disposed of the question of the Commission's underlying jurisdiction to impose wireless LNP, but in point of fact, the Court never reached the issue.<sup>4</sup> Consequently, ALLTEL concurs with Cingular's analysis,<sup>5</sup> for if the Commission lacks the underlying authority to impose wireless LNP, it similarly lacks authority to issue the very rulings CTIA now requests. While the underlying jurisdictional arguments are properly made in response to the CTIA Petition, ALLTEL, believes that immediate action on the recently filed Petition to Rescind (to which Cingular also is a party) is the more appropriate vehicle for expeditious resolution of the issue.

The importance of the rate center issue cannot be discounted on the basis of the erroneous assumption that it touches only on wireline to wireless porting. The comments make clear that the issue is of equal concern to both wireline and wireless carriers. The rural ILEC community continues to argue, as it did in response to the CTIA Rate Center Petition, that wireless carriers must have a presence in the rate center through direct interconnection with the local ILEC in order to port numbers on an interspecies basis.<sup>6</sup>

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<sup>1</sup> Cellular Telecommunications & Internet Association and Cellco Partnership d/b/a Verizon Wireless v. FCC, D.C. Cir. No. 02-1264 (decided June 6, 2003).

<sup>2</sup> Expedited Petition for Rulemaking to Rescind the CMRS Rule (filed June 16, 2003)(“Petition to Rescind”)

<sup>3</sup> Comments of Wireless Consumers Alliance at page 1.

<sup>4</sup> Cellular Telecommunications & Internet Association and Cellco Partnership d/b/a Verizon Wireless v. FCC, D.C. Cir. No. 02-1264 (decided June 6, 2003) slip at page 11.

<sup>5</sup> Cingular Comments at pages 2-13.

<sup>6</sup> OPASTCO Comments at pages 1-4.

Of equal importance are the comments of rural wireless carriers arguing that they will be severely disadvantaged if forced to port numbers to larger wireless carriers with a presence in the rate center by virtue of coverage but without direct interconnection with any carrier in the rate center.<sup>7</sup> Contrary the notion set forth in comments indicating that the rate center issue has no bearing on intraspecies porting, the rate center issue has direct competitive implications to any carrier with a small discrete license area and must be considered by the Commission. A substantial question remains as to whether wireless LNP will in fact be pro-competitive, as the Commission claims, or stimulate industry consolidation and ultimately provide consumers with fewer choices particularly in rural markets.

The Commission also must resolve wireline interests' claims that member carriers have received numerous invalid "bona fide requests" from wireless carriers seeking interspecies porting.<sup>8</sup> These claims are based upon the absence of numbering resources or direct interconnection arrangements with the wireline carrier(s) operating in the rate center.<sup>9</sup> The Commission's Fourth Report and Order,<sup>10</sup> however, appears to indicate that carriers, including covered CMRS carriers, may make requests for LNP in areas in which they operate or plan to operate.<sup>11</sup> As to the specificity of the request, all a carrier apparently must do is identify the discrete geographic area covered by the request and provide a tentative date by which the carrier expects to utilize number portability to port

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<sup>7</sup> Comments of the Rural Cellular Association at pages 2-5; See generally, Comments of the Rural Telecommunications Group; Comments of First Cellular of Southern Illinois.

<sup>8</sup> OPASTCO Comments at 2-6.

<sup>9</sup> Id. But see Comments of Verizon at page 10, indicating that interconnection agreements are not needed.

<sup>10</sup> Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116, and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200, FCC 03-126 (released June 18, 2003) (the "Fourth Report and Order").

<sup>11</sup> Fourth Report and Order at para. 10.

prospective customers.<sup>12</sup> Neither the presence of numbering resources nor interconnection arrangements within the rate center is referenced in the Commission's most recent formulation of the requirements for a bona fide request. Consequently, the Commission must expressly overrule the now-standard wireline characterizations of otherwise legitimate wireless porting requests as non-bona fide if the interspecies porting required under Sec. 251(b) of the Act is to be realized.

Significant disagreement among carriers remains as to the required porting intervals as well as other business issues governing the porting process and carrier/subscriber relationships. Local exchange carriers take issue with the prospect that the porting interval for wireline numbers may be revisited for interspecies ports.<sup>13</sup> As to wireless carriers, Cingular takes the position that its is a fully reasonable business practice consistent with its subscriber agreements to require that an account be current, including payment of any early termination penalty, before it is obligated to port a subscriber's number.<sup>14</sup> Verizon Wireless, on the other hand, believes that the Commission must force carriers to enter into "barrier free" porting contracts to ensure the free transferability of numbers.<sup>15</sup> Sprint favors the establishment of maximum porting intervals and new reporting requirements, while noting that the wireless industry goal of achieving ports with 2.5 hours is admittedly "ambitious."<sup>16</sup> AT&T Wireless Services favors the establishment of single uniform porting interval for all intermodal and intramodal ports.<sup>17</sup>

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<sup>12</sup> Id.

<sup>13</sup> Comments of Qwest Corporation at pages 2-9.

<sup>14</sup> Cingular Comments at pages 21-25.

<sup>15</sup> Verizon Comments at pages 3-5.

<sup>16</sup> Sprint Comments at pages 5-6, 8.

<sup>17</sup> AT&T Wireless Comments at pages 3-6, citing the participation of wireline carriers in intramodal wireless ports given the existence of Type 1 interconnection arrangements.

Again, the disparity among the carriers' positions compels Commission action. ALLTEL believes that, given the complexities of porting in the American market,<sup>18</sup> a uniform maximum porting interval must be established that accommodates the needs of simple and complex ports, wireline and wireless carriers, as well as urban and rural markets. If the reports of expert market analysts are to be given any credence, the relevant market is simply the two way voice market as wireless services promise to be increasingly substitutable for conventional wireline local exchange service. Any established porting interval must consequently be competitively neutral and based upon principles of parity among competing carriers. While consumer expectations as to porting intervals must be concrete, there is no requirement either in the statute or the Commission's rules that porting provide the instant gratification advocated by Verizon Wireless.<sup>19</sup> Rather, ALLTEL concurs with Cingular that porting obligations and intervals must be subject to the reasonable and prudent business practices established throughout the evolution of the competitive wireless market. Further, where the Commission provides appropriate guidance, there should be no need for mandatory porting agreements, although carriers should be free to enter into such agreements should they mutually deem them necessary.

ALLTEL's initial comments on the CTIA Petition questioned the propriety of rulemaking in response to a petition for declaratory ruling, and sought Commission resolution of issues in an open and lawful manner consistent with the principals of administrative law. Other carriers have voiced similar concerns.<sup>20</sup> Indeed, should the

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<sup>18</sup> Sprint Comments at page 8.

<sup>19</sup> Comments of Wireless Consumers Alliance, Inc. at page 2, noting that "Having waited years, consumers are not going to be deterred by having to wait another week."

<sup>20</sup> e.g. Cingular Comments at pages 13-19.

Commission choose to impose the reporting requirements advocated by Sprint, the procedural infirmities of this proceeding will be compounded in the absence of a final Paper Work Reduction Act analysis and OMB approval. ALLTEL seeks only to implement LNP on the basis of concrete and enforceable rules promulgated through a legally sufficient process.<sup>21</sup> The issues raised in the CTIA Petition require immediate resolution, but only in accord with the notice and comment procedures established for NANC reports under the Second Report and Order,<sup>22</sup> and the general tenets of the Administrative Procedures Act.

Respectfully submitted,

ALLTEL Communications, Inc.

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<sup>21</sup> Id. ALLTEL concurs with Cingular's analysis.

<sup>22</sup> Telephone Number Portability, CC Docket No. 95-116, Second Report and Order, 12 FCC Rcd at 12281, paras. 129-130